

(d) *Due date.* A fully completed and certified BE-10 report comprising Form BE-10A and Form(s) BE-10B, C, and/or D (as required) is due to be filed with BEA not later than May 28, 2010 for those U.S. Reporters filing fewer than 50, and June 30, 2010 for those U.S. Reporters filing 50 or more, foreign affiliate Forms BE-10B, C, and/or D. If the U.S. person had no foreign affiliates during its 2009 fiscal year, it must file a BE-10 Claim for Not Filing by May 28, 2010.

[74 FR 66233, Dec. 15, 2009]

§ 806.17 Rules and regulations for BE-12, 2007 Benchmark Survey of Foreign Direct Investment in the United States.

A BE-12, Benchmark Survey of Foreign Direct Investment in the United States will be conducted covering 2007. All legal authorities, provisions, definitions, and requirements contained in § 806.1 through § 806.13 and § 806.15(a) through (g) are applicable to this survey. Specific additional rules and regulations for the BE-12 survey are given in this section.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE-12, 2007 Benchmark Survey of Foreign Direct Investment in the United States, contained in this section, whether or not they are contacted by BEA. Also, a person, or their agent, contacted by BEA about reporting in this survey, either by sending them a report form or by written inquiry, must respond pursuant to § 806.4. This may be accomplished by:

(1) Filing the properly completed BE-12 report—Form BE-12(LF), Form BE-12(SF), Form BE-12 Mini, or Form BE-12 Bank, by May 31, 2008, as required;

(2) Completing and returning the Form BE-12 Claim for Not Filing by May 31, 2008; or

(3) Certifying in writing, by May 31, 2008, to the fact that the person is not a U.S. affiliate of a foreign person and not subject to the reporting requirements of the BE-12 survey.

(b) *Who must report.* A BE-12 report is required for each U.S. affiliate, that is, for each U.S. business enterprise in which a foreign person (foreign parent) owned or controlled, directly or indirectly, 10 percent or more of the voting

securities in an incorporated U.S. business enterprise, or an equivalent interest in an unincorporated U.S. business enterprise, at the end of the business enterprise's fiscal year that ended in calendar year 2007. A BE-12 report is required even if the foreign person's ownership interest in the U.S. business enterprise was established or acquired during the 2007 reporting year. Beneficial, not record, ownership is the basis of the reporting criteria.

(c) *Forms to be filed*—(1) Form BE-12(LF) (Long Form) must be completed by a U.S. affiliate that was majority-owned by one or more foreign parents (for purposes of this survey, a "majority-owned" U.S. affiliate is one in which the combined direct and indirect ownership interest of all foreign parents of the U.S. affiliate exceeds 50 percent), if:

(i) It is not a bank and is not owned directly or indirectly by a U.S. bank holding company or financial holding company, and

(ii) On a fully consolidated basis, or, in the case of real estate investment, on an aggregated basis, any one of the following three items for the U.S. affiliate (not just the foreign parent's share), was greater than \$175 million (positive or negative) at the end of, or for, its fiscal year that ended in calendar year 2007:

(A) Total assets (do not net out liabilities);

(B) Sales or gross operating revenues, excluding sales taxes; or

(C) Net income after provision for U.S. income taxes.

(2) Form BE-12(SF) (Short Form) must be completed by a U.S. affiliate if:

(i) It is not a bank and is not owned directly or indirectly by a U.S. bank holding company or financial holding company, and

(ii) On a fully consolidated basis, or, in the case of real estate investment, on an aggregated basis, any one of the three items listed in paragraph (c)(1)(ii) of this section for a majority-owned U.S. affiliate (not just the foreign parent's share), was greater than \$40 million (positive or negative) but none of these items was greater than \$175 million (positive or negative) at

§ 806.17, Nt.

15 CFR Ch. VIII (1–1–12 Edition)

the end of, or for, its fiscal year that ended in calendar year 2007.

(iii) On a fully consolidated basis, or, in the case of real estate investment, on an aggregated basis, any one of the three items listed in paragraph (c)(1)(ii) of this section for a minority-owned U.S. affiliate (not just the foreign parent's share), was greater than \$40 million (positive or negative) at the end of, or for, its fiscal year that ended in calendar year 2007. (A “minority-owned” U.S. affiliate is one in which the combined direct and indirect ownership interest of all foreign parents of the U.S. affiliate is 50 percent or less.)

(3) Form BE-12 Mini must be completed by a U.S. affiliate if:

(i) It is not a bank, and is not owned directly or indirectly by a U.S. bank holding company or financial holding company, and

(ii) On a fully consolidated basis, or, in the case of real estate investment, on an aggregated basis, none of the three items listed in paragraph (c)(1)(ii) of this section for a U.S. affiliate (not just the foreign parent's share), was greater than \$40 million (positive or negative) at the end of, or for, its fiscal year that ended in calendar year 2007.

(4) Form BE-12 Bank must be completed by a U.S. affiliate if:

(i) The U.S. affiliate is a bank. For purposes of the BE-12 survey, a “bank” is a business entity engaged in deposit banking or closely related functions, including commercial banks, Edge Act corporations engaged in international or foreign banking, U.S. branches and agencies of foreign banks whether or not they accept domestic deposits, savings and loans, savings banks, bank holding companies and financial holding companies under the Gramm-Leach-Bliley Act, including all subsidiaries or units of a bank holding company or financial holding company, and

(ii) On a fully consolidated basis any one of the three items listed in paragraph (c)(1)(ii) of this section for a U.S. affiliate (not just the foreign parent's share), was greater than \$15 million (positive or negative) at the end of, or for, its fiscal year that ended in calendar year 2007.

(5) Form BE-12 Claim for Not Filing will be provided for response by persons

that are not subject to the reporting requirements of the BE-12 survey but have been contacted by BEA concerning their reporting status.

(d) *Aggregation of real estate investments.* All real estate investments of a foreign person must be aggregated for the purpose of applying the reporting criteria. A single report form must be filed to report the aggregate holdings, unless written permission has been received from BEA to do otherwise. Those holdings not aggregated must be reported separately on the same type of report that would have been required if the real estate holdings were aggregated.

(e) *Due date.* A fully completed and certified Form BE-12(LF), BE-12(SF), BE-12 Mini, BE-12 Bank, or Form BE-12 Claim for Not Filing is due to be filed with BEA not later than May 31, 2008.

[72 FR 72919, Dec. 26, 2007]

EFFECTIVE DATE NOTE: At 76 FR 79056, Dec. 21, 2011, § 806.17 was revised, effective Jan. 20, 2012. For the convenience of the user, the revised text is set forth as follows:

§ 806.17 Rules and regulations for BE-12, Benchmark Survey of Foreign Direct Investment in the United States—2012.

A BE-12, Benchmark Survey of Foreign Direct Investment in the United States, will be conducted covering 2012. All legal authorities, provisions, definitions, and requirements contained in § 806.1 through § 806.13 and § 806.15(a) through (g) are applicable to this survey. Specific additional rules and regulations for the BE-12 survey are given in this section.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE-12, Benchmark Survey of Foreign Direct Investment in the United States—2012, contained in this section, whether or not they are contacted by BEA. Also, a person, or their agent, contacted by BEA about reporting in this survey, either by sending them a report form or by written inquiry, must respond pursuant to § 806.4. This may be accomplished by:

(1) Certifying in writing, by the due date of the survey, to the fact that the person is not a U.S. affiliate of a foreign person and not subject to the reporting requirements of the BE-12 survey;

(2) Completing and returning the “BE-12 Claim for Not Filing” by the due date of the survey; or

(3) Filing the properly completed BE-12 report—Form BE-12A, Form BE-12B, or Form BE-12C—by May 31, 2013.

(b) *Who must report.* A BE-12 report is required for each U.S. affiliate, that is, for each U.S. business enterprise in which a foreign person (foreign parent) owned or controlled, directly or indirectly, 10 percent or more of the voting securities in an incorporated U.S. business enterprise, or an equivalent interest in an unincorporated U.S. business enterprise, at the end of the business enterprise's fiscal year that ended in calendar year 2012. A BE-12 report is required even if the foreign person's ownership interest in the U.S. business enterprise was established or acquired during the 2012 reporting year.

(c) *Forms to be filed.* (1) Form BE-12A must be completed by a U.S. affiliate that was majority-owned by one or more foreign parents (for purposes of this survey, a "majority-owned" U.S. affiliate is one in which the combined direct and indirect ownership interest of all foreign parents of the U.S. affiliate exceeds 50 percent), if on a fully consolidated basis, or, in the case of real estate investment, on an aggregated basis, any one of the following three items for the U.S. affiliate (not just the foreign parent's share), was greater than \$300 million (positive or negative) at the end of, or for, its fiscal year that ended in calendar year 2012:

- (i) Total assets (do not net out liabilities);
- (ii) Sales or gross operating revenues, excluding sales taxes; or
- (iii) Net income after provision for U.S. income taxes.

(2) Form BE-12B must be completed by:

(i) A majority-owned U.S. affiliate if, on a fully consolidated basis, or, in the case of real estate investment, on an aggregated basis, any one of the three items listed in paragraph (c)(1) of this section (not just the foreign parent's share), was greater than \$60 million (positive or negative) but none of these items was greater than \$300 million (positive or negative) at the end of, or for, its fiscal year that ended in calendar year 2012.

(ii) A minority-owned U.S. affiliate if, on a fully consolidated basis, or, in the case of real estate investment, on an aggregated basis, any one of the three items listed in paragraph (c)(1) of this section (not just the foreign parent's share), was greater than \$60 million (positive or negative) at the end of, or for, its fiscal year that ended in calendar year 2012. (A "minority-owned" U.S. affiliate is one in which the combined direct and indirect ownership interest of all foreign parents of the U.S. affiliate is 50 percent or less.)

(3) Form BE-12C must be completed by a U.S. affiliate if, on a fully consolidated basis, or, in the case of real estate investment, on an aggregated basis, none of the three items listed in paragraph (c)(1) of this section for a U.S. affiliate (not just the foreign parent's share), was greater than \$60 million (positive or negative) at the end of, or for, its fiscal year that ended in calendar year 2012.

(4) BE-12 Claim for Not Filing will be provided for response by persons that are not subject to the reporting requirements of the BE-12 survey but have been contacted by BEA concerning their reporting status.

(d) *Aggregation of real estate investments.* All real estate investments of a foreign person must be aggregated for the purpose of applying the reporting criteria. A single report form must be filed to report the aggregate holdings, unless written permission has been received from BEA to do otherwise. Those holdings not aggregated must be reported separately on the same type of report that would have been required if the real estate holdings were aggregated.

(e) *Due date.* A fully completed and certified Form BE-12A, BE-12B, BE-12C, or BE-12 Claim for Not Filing is due to be filed with BEA not later than May 31, 2013.

§ 806.18 OMB control numbers assigned to the Paperwork Reduction Act.

(a) *Purpose.* This section complies with the requirements of section 3507 (f) of the Paperwork Reduction Act (PRA) which requires agencies to display a current control number assigned by the Director of OMB for each agency information collection requirement.

(b) *Display.*

15 CFR section where identified and described	Current OMB control No.
806.1 through 806.17	0608-0004 0009 0034 0042 0049 0053

[72 FR 72919, Dec. 26, 2007, as amended at 76 FR 39261, July 6, 2011]

PART 807—PUBLIC INFORMATION

Sec.

807.1 Public Reference Facility.

807.2 Department of Commerce rules applicable.

§ 807.1 Public Reference Facility.

The Public Reference Facility of the Bureau of Economic Analysis is located in room B7 of the Tower Building, 1401 K Street NW., Washington, DC 20230. The telephone number is 202-523-0595. The facility is open to the public from